

1 THOMAS P. O'BRIEN
2 United States Attorney
3 ROBB C. ADKINS
4 Assistant United States Attorney
5 Chief, Santa Ana Branch Office
6 TERRI K. FLYNN (CA SBN 204932)
7 Assistant United States Attorneys
8 United States Courthouse
9 411 West Fourth Street, Suite 8000
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8 Attorneys for Plaintiff
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,) SA CR No. 08-223-AG
13)
14 Plaintiff,) STIPULATION REGARDING REQUEST FOR
15) (1) CONTINUANCE OF TRIAL DATE AND
16 v.) (2) FINDINGS OF EXCLUDABLE TIME
17) PERIODS PURSUANT TO SPEEDY TRIAL
18 JERRY FANYUAN LIN,) ACT
19 JASON I. MING WEI,)
JOSE G. GARIBAY,) CURRENT TRIAL DATE:
a.k.a. "Guero,") June 19, 2009
FAUSTO VILLA PEREZ,) PROPOSED TRIAL DATE:
HONG YEE CHOW,) June 15, 2010
a.k.a. "Annie,") CURRENT STATUS CONFERENCE:
Defendants.) June 8, 2009 at 2:00 p.m.
) PROPOSED STATUS CONFERENCE
) June 7, 2010 at 2:00 p.m.
)

23 Plaintiff United States of America, by and through its
24 attorney of record, Assistant United States Attorney TERRI K.
25 FLYNN, and defendant JERRY FANYUAN LIN, by and through his
26 counsel of record, ALEXANDER KESSEL, defendant JASON I. MING WEI,
27 by and through his counsel of record, MICHAEL SEVERO, defendant
28 JOSE G. GARIBAY, by and through his counsel of record, PETER

1 SCALISI, defendant FAUSTO VILLA PEREZ, by and through his counsel
2 of record, DIANE BASS, defendant HONG YEE CHOW, by and through
3 her counsel of record, C. THOMAS McDONALD, hereby stipulate as
4 follows:

5 1. The Indictment in this case was August 27, 2008.

6 Defendant WEI first appeared before a judicial officer
7 of the court in which the charges in this case were pending on
8 September 29, 2008. The remainder of the defendants appeared
9 before a judicial officer of the court in which the charges in
10 this case were pending on September 30, 2008. The Speedy Trial
11 Act, 18 U.S.C. § 3161, originally required that the trial
12 commence on or before December 8, 2008.

13 2. On October 6, 2008, the Court set a trial date of
14 November 25, 2008 and a status conference date of November 17,
15 2008 at 2:00 p.m.

16 3. Defendants LIN, WEI, and GARIBAY, are detained pending
17 trial. Defendants PEREZ and CHOW are released on bond pending
18 trial. The parties estimate that the trial in this matter will
19 last approximately 16 days. All defendants are joined for trial
20 and a severance has not been granted. Additionally, there are
21 approximately eight outstanding defendants that have not been
22 arrested and that are fugitives.

23 4. By prior stipulation, the parties jointly moved to
24 continue the trial date to June 19, 2009 and the status
25 conference to June 8, 2009 at 2:00 p.m.

26 5. By this stipulation, the parties jointly move to
27 continue the trial date to June 15, 2010 and the status

1 conference to June 7, 2010 at 2:00 p.m. This is the second
2 request for a continuance.

3 6. The parties request the continuance based upon the
4 following facts, which the parties believe demonstrate good cause
5 to support the appropriate findings under the Speedy Trial Act:

6 a. All defendants are charged with a violation of 21
7 U.S.C. § 846: conspiracy to distribute narcotics. The government
8 has produced discovery to the defense, including nine CD's and
9 almost 5,000 pages of discovery. This discovery includes
10 thousands of intercepted calls obtained pursuant to a wiretap of
11 several of the defendants' telephones. The majority of the
12 intercepted calls are in foreign languages, including Mandarin
13 Chinese.

14 b. Due to the nature of the prosecution, the number of
15 defendants, including the charges in the indictment and the
16 voluminous discovery produced to defendants, this case is so
17 unusual and so complex that it is unreasonable to expect adequate
18 preparation for pretrial proceedings or for the trial itself
19 within the Speedy Trial Act time limits.

20 c. In light of the foregoing, counsel for defendants
21 also represent that additional time is necessary to confer with
22 defendants, conduct and complete an independent investigation of
23 the case, conduct and complete additional legal research
24 including for potential pre-trial motions, review the discovery
25 and potential evidence in the case, and prepare for trial in the
26 event that a pretrial resolution does not occur. Defense counsel
27 represent that failure to grant the continuance would deny them

1 reasonable time necessary for effective preparation, taking into
2 account the exercise of due diligence.

3 d. Defendants believe that failure to grant the
4 continuance will deny them continuity of counsel and adequate
5 representation.

6 e. The government does not object to the continuance.

7 f. The requested continuance is not based on
8 congestion of the Court's calendar, lack of diligent preparation
9 on the part of the attorney for the government or the defense, or
10 failure on the part of the attorney for the Government to obtain
11 available witnesses.

12 7. For purposes of computing the date under the Speedy
13 Trial Act by which defendant's trial must commence, the parties
14 agree that the time period of June 19, 2009 to June 15, 2010,
15 inclusive, should be excluded pursuant to 18 U.S.C.

16 §§ 3161(h)(7)(A), (h)(7)(B)(i) and (7)(iv) because the delay
17 results from a continuance granted by the Court at defendant's
18 request, without government objection, on the basis of the
19 Court's finding that: (i) the ends of justice served by the
20 continuance outweigh the best interest of the public and
21 defendant in a speedy trial; (ii) failure to grant the
22 continuance would be likely to make a continuation of the
23 proceeding impossible, or result in a miscarriage of justice;
24 (iii) the case is so unusual and so complex, due to the nature of
25 the prosecution and the number of defendants, that it is
26 unreasonable to expect preparation for pre-trial proceedings or
27 for the trial itself within the time limits established by the
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Speedy Trial Act; and (iv) failure to grant the continuance would unreasonably deny defendants continuity of counsel and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

8. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods be excluded from the period within which trial must commence. Moreover, the same provisions and/or other provisions of the Speedy Trial Act may in the future authorize the exclusion of additional time periods from the period within which trial must commence.

IT IS SO STIPULATED.

THOMAS P. O'BRIEN
United States Attorney

ROBB C. ADKINS
Assistant United States Attorney
Chief, Santa Ana Branch Office

June 1, 2009
DATE

Terri K. Flynn
TERRI K. FLYNN
Assistant United States Attorney

Attorneys for Plaintiff
United States of America

1 I am JERRY FANYUAN LIN's attorney. I have carefully
2 discussed every part of this stipulation and the continuance of
3 the trial date with my client. I have fully informed my client
4 of his Speedy Trial rights. To my knowledge, my client
5 understands those rights and agrees to waive them. I believe
6 that my client's decision to give up the right to be brought to
7 trial earlier than June 15, 2010 is an informed and voluntary
8 one.

9
10 June 1, 2009
11 DATE

Alexander Kessel by permission TKF
ALEXANDER KESSEL
Attorney for Defendant
JERRY FANYUAN LIN

13
14 I am JASON I. MING WEI's attorney. I have carefully
15 discussed every part of this stipulation and the continuance of
16 the trial date with my client. I have fully informed my client
17 of his Speedy Trial rights. To my knowledge, my client
18 understands those rights and agrees to waive them. I believe
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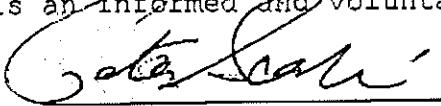
22
23 May 28, 2009
24 DATE

Michael Severo by permission TKF
MICHAEL SEVERO
Attorney for Defendant
JASON I. MING WEI

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1 I am JOSE G. GARIBAY's attorney. I have carefully discussed
2 every part of this stipulation and the continuance of the trial
3 date with my client. I have fully informed my client of his
4 Speedy Trial rights. To my knowledge, my client understands
5 those rights and agrees to waive them. I believe that my
6 client's decision to give up the right to be brought to trial
7 earlier than June 15, 2010 is an informed and voluntary one.

8 5/23/09

9 
10 PETER SCALISI
11 Attorney for Defendant
12 JOSE G. GARIBAY

13 I am FAUSTO VILLA PEREZ's attorney. I have carefully
14 discussed every part of this stipulation and the continuance of
15 the trial date with my client. I have fully informed my client
16 of his Speedy Trial rights. To my knowledge, my client
17 understands those rights and agrees to waive them. I believe
18 that my client's decision to give up the right to be brought to
19 trial earlier than June 15, 2010 is an informed and voluntary
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21 DATE

22 DIANE BASS
23 Attorney for Defendant
24 FAUSTO VILLA PEREZ

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1 I am JOSE G. GARIBAY's attorney. I have carefully discussed
2 every part of this stipulation and the continuance of the trial
3 date with my client. I have fully informed my client of his
4 Speedy Trial rights. To my knowledge, my client understands
5 those rights and agrees to waive them. I believe that my
6 client's decision to give up the right to be brought to trial
7 earlier than June 15, 2010 is an informed and voluntary one.
8

9 DATE

PETER SCALISI
10 Attorney for Defendant
JOSE G. GARIBAY

11 I am FAUSTO VILLA PEREZ's attorney. I have carefully
12 discussed every part of this stipulation and the continuance of
13 the trial date with my client. I have fully informed my client
14 of his Speedy Trial rights. To my knowledge, my client
15 understands those rights and agrees to waive them. I believe
16 that my client's decision to give up the right to be brought to
17 trial earlier than June 15, 2010 is an informed and voluntary
18 one.
19

20 DATE

5/22/09
21 DIANE BASS
Attorney for Defendant
FAUSTO VILLA PEREZ

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1 I am HONG YEE CHOW's attorney. I have carefully discussed
2 every part of this stipulation and the continuance of the trial
3 date with my client. I have fully informed my client of her
4 Speedy Trial rights. To my knowledge, my client understands
5 those rights and agrees to waive them. I believe that my
6 client's decision to give up the right to be brought to trial
7 earlier than June 15, 2010 is an informed and voluntary one.

8 5/26/09
9 DATE

C. Thomas McDonald
C. THOMAS McDONALD
Attorney for Defendant
HONG YEE CHOW

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